

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

84 LUMBER COMPANY, L.P.

PLAINTIFF,

C.A. No. 2:11-cv-00548-LPL

V.

GREGORY MORTIMER BUILDERS and  
GREGORY MORTIMER,  
DEFENDANTS.

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GREGORY D. MORTIMER, GREGORY D.  
MORTIMER PROPERTIES, INC. T/D/A  
GREGORY MORTIMER BUILDERS and M&M  
DEVELOPMENT, LLC,

COUNTER-PLAINTIFFS,

V.

84 LUMBER COMPANY, L.P.

COUNTER-DEFENDANT.

**84 LUMBER COMPANY, L.P.'S UNCONTESTED MOTION TO  
WITHDRAW AND REPLACE EXHIBITS TO AFFIDAVIT OF BRENDA EALY**

AND NOW, comes the Plaintiff, 84 Lumber Company, L.P. ("84 Lumber"), by and through its attorneys, BUCHANAN INGERSOLL & ROONEY PC, and files the within Uncontested Motion to Withdraw and Replace Exhibits to Affidavit of Brenda Ealy. In support this Motion, 84 Lumber avers as follows:

1. 84 Lumber filed its Motion to Dismiss Counts I, VII and XI of Gregory Mortimer and Gregory Mortimer Builders' Counterclaim Pursuant to Federal Rules of Civil Procedure 12(b)(6) and 9(b) and the supporting brief ("Motion to Dismiss") on May 26, 2011.

2. In support of its Motion to Dismiss, 84 Lumber filed the Affidavit of Brenda Ealy attesting to the authenticity and accuracy of certain contract documents at issue in this matter.

3. Attached to the Ealy Affidavit are eight (8) Exhibits, Exhibits "A" through "H."
4. Exhibit A to the Ealy Affidavit is Credit Application signed by Gregory Mortimer on May 9, 1997 and received by 84 Lumber Company, L.P. on May 15, 1997.
5. Exhibit A contains the Social Security Number and bank account numbers of Defendant Gregory Mortimer.
6. 84 Lumber inadvertently filed an unredacted copy of Exhibit A.
7. Attached hereto is a copy of the Exhibits originally filed with the Ealy Affidavit, including a redacted Exhibit A.
8. 84 Lumber requests this Honorable Court grant the proposed order permitting 84 Lumber to file a redacted version of Exhibit A and remove the unredacted version of Exhibit A from the electronic filing system as well as from the hard-copy of the Court file.
9. 84 Lumber's counsel spoke with counsel for the Defendants and the Defendants do not oppose this motion.

WHEREFORE, 84 Lumber moves this Honorable Court for an Order removing the originally filed Exhibits from the docket, electronic filing system and hard-copy files and replace the removed Exhibits with the attached Exhibits including redacted Exhibit A.

BUCHANAN INGERSOLL & ROONEY PC

By: /s/ Patrick R. Malone  
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Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on May 27, 2011, the foregoing **84 LUMBER COMPANY, L.P.'S UNCONTESTED MOTION TO WITHDRAW AND REPLACE EXHIBITS TO AFFIDAVIT OF BRENDA EALY** was served via CM/ECF System of the United States District Court for the Western District of Pennsylvania upon the following:

James W. Bentz  
Amy E. Bentz  
The Washington Center Building  
680 Washington Road, Suite 200  
Pittsburgh, PA 15228

*Counsel for Defendants, Gregory D. Mortimer Properties, Inc.,  
t/a Gregory Mortimer Builders,  
Gregory D. Mortimer and  
M&M Development, LLC*

Date: May 27, 2011

/s/ Patrick R. Malone